



California Energy Commission

**DOCKETED**

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One of the key topics USERA would like to address with the CEC and industry at large is code section 1673 (j) and the definition of "Independent Entity" as specified in Title 20 regarding raters and rating companies offering add-on services to contractors that represent a conflict of interest.

As far as USERA is concerned and has been, we desire to enforce code and be a standard bearer in the industry for doing such. This particular matter however, seems to be somewhat muddy apparently as it pertains to rating companies and how this clearly written section of CEC code applies to them. USERA does not believe that it needs to be muddy and believes rating companies, should fall under the same rules and regulations as actual raters since they are representing this process just in greater volume. In fact, for this reason, USERA believes that they carry an even greater responsibility since they are ultimately impacting greater numbers of homeowners through a single entity. USERA is not suggesting that the owners of rating companies need to be certified as HERS raters, if they themselves are not performing ratings, but USERA is saying that they need to be held to all other rules and regulations since they are in fact performing HERS ratings through the employment/contracting of HERS raters and acquisition of contractors for that very purpose. For all intents and purposes they are representing the HERS rater industry and administrating and selling HERS rating services and benefitting financially for doing so. As such, they should, by code definition, be held to the very same standards. In saying that, USERA also wants to stress that it does business with some very successful rating companies and are completely fine with the existence of rating companies, but, some of these concerns are being raised directly by them on this matter.

Conversely, the TPQCP has explicit permissions granted to them as defined in RA2.7 that grant them the specific ability to offer services to contractors. The CEC was obviously very careful and wise to make these definitions which state the roles and responsibilities of the various participants in this process and permissions they have, and do not have, and one rule confirms and supports the other very nicely. Where one has a conflict of interest clearly defined and understood by the industry at large as a conflict, the other grants specific permission to sell services to installing contractors.

Sincerely,

A handwritten signature in blue ink, enclosed within a large, loopy oval. The signature appears to be "Paul J. Lee".

**Owner and Chief Executive Officer**

### Code 1673 (j) and Independent Entity Definition

*Independent Entity* means having no financial interest in, and not advocating or recommending the use of any product or service as a means of gaining increased business with, firms or persons specified in Section 1673(j).

1673(j) Conflict of Interest.

- (1) Providers shall be independent entities from Raters.
- (2) Providers and Raters shall be independent entities from the builder and from the subcontractor installer of energy efficiency improvements field verified or diagnostically tested.
- (3) Providers and Raters shall be independent entities from any firm or person that performs work on the home for a California Home Energy Audit or a California Whole-House Home Energy Rating.

EXCEPTION to Section 1673(j)(3): California Whole-House Home Energy Raters, who are working as or for a Building Performance Contractor certified under an Energy Commission-approved Building Performance Contractor program as part of a Provider's Rating System as specified in Section 1674(e) of the regulations and in the HERS Technical Manual, shall not be required to be an independent entity from the person(s) or firm(s) performing the work on a home. This exception shall not apply to California Field Verification and Diagnostic Testing Raters performing field verification and diagnostic testing of newly constructed homes or alterations to existing homes to verify compliance with the requirements of Title 24, Part 6.

Excerpt from the Residential Appendix RA2.7

"The Third Party Quality Control Program shall meet the requirements imposed on a HERS Rater specified in the Commission's HERS Program regulations (California Code of Regulations, Title 20, Division 2, Chapter 4, Article 8, Sections 1670 -1675), including the requirement to be an independent entity from the builder, the HERS Rater that provides independent field verifications, and the subcontractor installer as specified by Section 1673(j). ***However, a Third Party Quality Control Program may have business relationships with installers participating in the program to advocate or promote the program and an installer's participation in the program, and to advocate or promote products that the Third Party Quality Control Program sells to installers as part of the Program.***

Bolded and italicized for emphasis.